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May 24, 1996

Mr. William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W. Room 222  
Washington, D.C. 20554

ORIGINAL

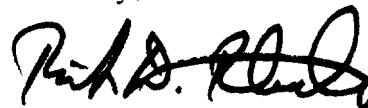
Re: PR Docket No. 93-144  
Notice of Ex Parte Contact

Dear Mr. Caton:

In accordance with the Commission's rules, this will provide notice that a written presentation concerning the above-captioned proceeding was prepared by the North Carolina Utilities Commission and subsequently forwarded to Chairman Reed Hundt on or about May 17, 1996. A copy of the presentation item is attached for the Commission's files.

This presentation was made at the request of Duke Power Company. The points raised in this item substantially reflect the positions taken in commentary filed on behalf of Duke Power at earlier stages of this docket proceeding. It is believed that this correspondence is complete and in proper order for its intended purpose; however, should questions arise concerning this matter please contact the undersigned.

Sincerely,



Rick D. Rhodes

Enclosure

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*Porter*



## State of North Carolina Utilities Commission

COMMISSIONERS  
HUGH A. WELLS, Chairman  
CHARLES H. HUGHES  
LAURENCE A. COBB

Post Office Box 29510  
Raleigh, N. C. 27626-0510

COMMISSIONERS  
ALLYSON K. DUNCAN  
RALPH A. HUNT  
JUDY HUNT  
JO ANNE SANFORD

May 17, 1996

The Honorable Reed Hundt, Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554

Re: 800 MHz Frequency Reallocations  
PR Docket No. 93-144

Dear Chairman Hundt:

We would like to express our reservations about action which the Federal Communications Commission is taking concerning 800 MHz radio spectrum. This matter was brought to our attention by Duke Power Company, an electric utility which serves large areas of our state and is under our regulatory jurisdiction. Our understanding is that the Commission plans to reallocate a significant portion of spectrum from this band, from private to commercial uses, to award licenses in the band by auction, and to allow commercial auction winners to force incumbent users of the band to relocate to other channels.

Frequencies in the 800 MHz band have been used successfully for many years to provide, among other things, safety-oriented critical services for public utilities. While the need to enhance Federal revenues and the benefits of expanding commercial enterprises are understandable, we question whether these benefits justify selecting for reallocation channels which have been critical in facilitating the safe and efficient provision of electric power and other public utility services for many years.

We understand that Duke Power has invested millions of dollars to construct a large-scale dedicated telecommunications system which covers the company's entire service area with the kind of highly-reliable grade of service that is necessary to meet the responsibilities of a public utility. This system has proven critical to Duke for the rapid and efficient restoration of power outages as well as for handling situations such as downed power lines which may present a public safety



Chairman Hundt

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hazard. It has proven invaluable during natural disasters such as occurred in the aftermath of Hurricane Hugo and in the major ice storm emergencies during the winter of 1995.

Our Commission is responsible for ensuring that the provision of basic utility services to the public is performed safely and efficiently under all conditions. In this regard, Duke has an outstanding record, and we believe that record has been made possible in significant part through the telecommunications capabilities made possible to Duke through exclusive 800 MHz spectrum assignments. We do not believe it is in the public interest for Duke to suffer any interruption of its telecommunications capabilities.

Therefore, we respectfully request that the FCC either continue to maintain dedicated spectrum for systems such as Duke's or that a transition plan in full accordance with Comments filed at the FCC by Duke be established which will provide the necessary safeguards to ensure that the proposed reallocation will create no negative impact on the public welfare. Any interruption in the Duke system could prove a serious detriment to the public. Duke's system is complex and cannot simply be moved to other channels on a random basis or reconstructed in a piecemeal manner, because of the number of channels involved and the site-interdependent re-use of channels within the telecommunications system. We would also be uncomfortable if Duke were forced to purchase service from and have to rely on the facilities of a commercial carrier.

Thank you for your consideration of our views in this matter. We look forward to hearing from you at your earliest convenience with regard to the concerns discussed herein.

A duplicate of this letter is being provided to Duke Power Company's communication counsel, Rich D. Rhodes, who we understand has undertaken responsibility for complying with the FCC's *ex parte* rules.

Sincerely yours,

  
Hugh A. Wells

HAW/df

cc: Rick D. Rhodes, Esquire

Irwin, Campbell & Tannenwald, P.C.

1730 Rhode Island Avenue, N.W.

Suite 200

Washington, D.C. 20036



## **CERTIFICATE OF SERVICE**

I, Vanessa N. Duffy, hereby certify that on this 24th day of May, 1996, copies of the foregoing "Notice of Ex Parte Contact" have been served by first-class U.S. mail, postage pre-paid, upon the following:

The Honorable James H. Quello  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

The Honorable Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

The Honorable Susan Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

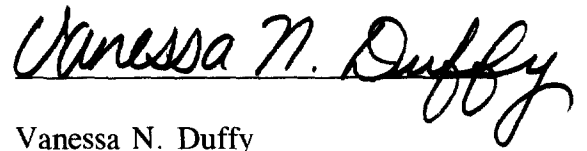
The Honorable Reed Hundt  
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Vanessa N. Duffy